



CITY OF BAINBRIDGE ISLAND
EXECUTIVE DEPARTMENT

November 21, 2013

Barbara Nightingale, Regional Shoreline Planner
Northwest Regional Office
Washington Dept. of Ecology
3190 - 160th Ave. SE
Bellevue, WA 98008

Dear Ms. Nightingale,

Thank you for transmitting the Department of Ecology's required and recommended changes to the City's Shoreline Master Program (SMP) Update, dated October 16, October 25, and November 15, 2013. We also appreciate the time and effort that Ecology took in reviewing the City staff's proposed alternative language.

The City Council reviewed all of the changes and alternative language suggestions at a Public Hearing on November 20, 2013 and took public comment. The Council then voted to authorize me on behalf of the City to inform Ecology that the Council accepts Ecology's draft required amendments, draft recommended amendments and staff's alternative language, as amended by the Council at the November 20 Public Hearing. Two matrices are enclosed that show the action taken by Council on the required and recommended changes. A third matrix compares the draft language provided by Ecology and the alternative language approved by the City Council.

The City has spent the last three and half years working with Ecology, state and federal jurisdictions, affected Indian tribes, environmental groups and shoreline property owners to prepare shoreline policies and regulations that meet the state guidelines while addressing Bainbridge Island citizens' concerns and reflecting the unique conditions that we have along the City's shorelines.

We appreciate Ecology's responsiveness during the Bainbridge Island Shoreline Master Program update and look forward to receiving the final findings and conclusions and final amendment matrices for our December 11, 2013 final Public Hearing.

Sincerely,

Douglas Schulze
City Manager

Bainbridge Island City Council Approved Required SMP Language Changes

Item	SMP Submittal Provision	Topic	Ecology's Required Changes	Bainbridge Island City Council Action
1	BI 5.2.1	Aquaculture Applicability	These provisions apply to the commercial cultivation and harvesting of fish, shellfish or other aquatic animals or plants, but also to non-commercial harvesting, and to the incidental preparation of fish and shellfish for human consumption, or cultivation for restoration purposes. Incidental small-scale aquaculture that is strictly for personal consumption may be considered accessory to residential use and must adhere to all applicable regulations in this program.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
2	BI 5.2.1	Aquaculture Applicability	Aquaculture activities may not be <u>are not considered dredging nor</u> subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal, <u>depending on site specific circumstances.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
3	BI 5.2.2	Aquaculture Applicability	<u>Aquaculture is dependent on the use of the water and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Recognize that w</u> hen properly managed, aquaculture can result in long-term over short-term ecological and economic benefit and can protect the resources and ecology of the shoreline.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
4	BI 5.2.2(3)	Aquaculture policies	Prohibit aquaculture where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species including eelgrass, kelp, and other macroalgae; adversely impact City and state critical habitat areas and other habitat conservation areas;	City Council approved on November 20, 2013 as proposed by Department of Ecology.
5	BI 5.2.2(7)	Aquaculture Policies	Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, <u>and</u> limited substrate modification, and <u>that don't rely</u> reliance on artificial feeding.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
6	BI 5.2.3(3)(e)	Aquaculture Regulations-Prohibited	Areas that do not have potential to support native populations of the type(s) of aquaculture under consideration.	City Council approved on November 20, 2013 as proposed by Department of Ecology.

7	BI 5.2.3(4)	Aquaculture Regulations-Prohibited	<p>Aquaculture that uses or releases herbicides, pesticides, antibiotics, fertilizers, non-indigenous species, parasites, pharmaceuticals, genetically modified organisms, feed or other materials known to be potentially harmful into surrounding waters is prohibited unless: 1) except that the following may be allowed:</p> <p>a. Experimental forms of aquaculture involving new species, new growing methods or new harvesting techniques may be allowed consistent with this Program and applicable state and federal regulations.</p> <p>b. Shellfish seeding/culturing may be permitted when conducted for native population recovery in accordance with government/Tribal approved plan <u>and all state and federal regulations or</u></p> <p>c. Pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemical applications for aquacultural operations unless approved by all <u>only if prior approval is obtained from all appropriate state and federal agencies, including, including but not limited to, the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fish and Wildlife and Agriculture, as required, and 2) proof thereof is submitted to the City.</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
8	BI 5.2.3	Aquaculture Prohibited	<p>shall be prohibited in existing kelp beds or in beds of native eel grass (<i>Zostera marina</i>) containing more than two (2) turions per one-quarter (1/4) square meter in winter or three (3) turions per one-quarter (1/4) square meter in summer.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
9	BI 5.2.4(1)	Regulations General	<p>5.2.4 Regulations - General</p> <p>1. Aquaculture may be allowed as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations and as provided below:</p> <p>a. Community Shellfish Gardens may be <u>are</u> allowed as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, <u>Shoreline Residential and Urban</u> designations and in adjacent Aquatic designations except Priority Aquatic (unless as part of an approved restoration project).</p> <p>b. Individual Shellfish Gardens may be <u>are</u> allowed in the Island Conservancy, Shoreline Residential Conservancy, <u>Shoreline Residential and Urban</u>. Shoreline designations, and in adjacent Aquatic designation designations <u>Priority B. They also are allowed in Aquatic Priority A when for the recovery of native populations, restoration, or personal use as defined Aquaculture 16.12.5.3. except in Priority Aquatic A (unless as part of an approved restoration project.</u></p>	<p>City Council approved alternative language on November 20, 2013:</p> <p>Aquaculture may be allowed as follows:</p> <p>a. Intensive aquaculture as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations</p> <p>b. Community Shellfish Gardens as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, and Urban designations, and in adjacent Aquatic designations except Priority Aquatic (only as part of an approved restoration project).</p> <p>c. Individual Shellfish Gardens may be allowed in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, Urban and in adjacent Aquatic designations, including Priority Aquatic B. They also are allowed in Aquatic Priority A when for the recovery of native populations, restoration, or personal use.</p>
10	BI 5.2.4(5)	Regulations General	<p>Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to, or destruction of, a legally established aquacultural enterprise shall be grounds for modification or denial of that use.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
11	BI 5.2.5	Regulations Design Standards	<p>Floating and submerged aquaculture structures shall be located to <u>avoid or minimize</u> interference with <u>navigation</u> navigable waters and the <u>normal</u> public's use of <u>the surface waters, the water and shoreline</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.

12	BI 5.2.5(2)	Regulations Design Standards	Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall <u>avoid or</u> minimize detrimental impacts to the shoreline.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
13	BI 5.2.5(4)	Regulations Design Standards	Onshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Standards Matrix, except that reduced setbacks may be permitted <u>through a shoreline variance</u> where necessary for the operation of hatcheries and rearing ponds. Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed 6 feet in height, as measured from <u>the ground</u> water surface	City Council approved on November 20, 2013 as proposed by Department of Ecology.
14	BI 5.2.5(5)	Regulations Design Standards	Aquacultural proposals that include net pens or rafts shall not be located closer than one (1) nautical mile to any other aquacultural facility that includes net pens or rafts, provided that a lesser distance may be authorized by the Administrator if the applicant can demonstrate to the satisfaction of the Administrator that the environmental and aesthetic concerns expressed in the Master Program shall be addressed. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of the Master Program.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
15	BI 5.2.5(9)	Aquaculture Design Standards	Except as provided in Section 5.2.5(1), aquacultural developments approved on an experimental basis shall not exceed five (5) acres in area, except anchorage for floating systems, and five (5) years in duration,	City Council approved on November 20, 2013 as proposed by Department of Ecology.
16	BI 5.2.5(10)	Aquaculture Design Standards	Shellfish Gardens for personal consumption are allowed <u>on private lands as an accessory use</u> to a primary residential use provided the following can be met:	City Council approved on November 20, 2013 as proposed by Department of Ecology.
17	BI 5.2.5(10)(c)	Aquaculture Design Standards	The area used for cultivation is no greater than 400 square feet in area.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
18	BI 5.2.6(6)	Aquaculture Operational Standards	When feasible the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and applications. All nets will shall be maintained and cleaned in accordance with all applicable state NPDES permit and federal requirements.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
19	BI 5.2.8	Aquaculture Commercial Geoduck Requirements	<u>5.2.8 Commercial Geoduck Requirements</u> <u>In addition to other provisions in section 5.2, commercial geoduck aquaculture will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv). Where there is inconsistency between the provisions in 5.2.1, 5.2.2., 5.2.3, 5.2.4, 5.2.5, 5.2.6 or 5.2.7 and the geoduck provisions, the specific commercial geoduck provisions apply.</u> <u>A conditional use permit is required for all new commercial geoduck aquaculture and conversions from existing non-geoduck aquaculture to geoduck aquaculture. CUPs for new commercial geoduck and conversions will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv).</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
20	BI 1.2.2(2)	Scope of Shoreline Management Act	2. <u>Segments of</u> streams and rivers with a <u>where the</u> mean annual flow <u>is more than</u> 20 cubic feet per second (cfs) or more ;	City Council approved on November 20, 2013 as proposed by Department of Ecology.

21	BI 1.2.2(3)	Scope of Shoreline Management Act	3. Lakes and reservoirs 20 acres and greater larger than 20 acres in area;	City Council approved on November 20, 2013 as proposed by Department of Ecology.
22	BI 1.2.2(4)	Scope of Shoreline Management Act	4. Wetlands (a specific Shoreline Management Act term which includes related upland, shoreland, and wetland areas) associated with all of the above; and <u>Shorelands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
23	BI 3.3.2.2		Priority Aquatic shall be designated as follows: 1. Priority Aquatic Category A is more protective and intended to be the default classification. <u>a. Those areas previously designated Aquatic Conservancy are as of the adoption of this date XXX XX, 2013 of this SMP, shall be</u> are designated Priority Aquatic Category A. 2. Priority Aquatic areas located adjacent to upland areas with a high level of existing development will be classified as <u>are</u> Priority Aquatic B.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
24	BI 4.1.5.4(2)	Critical Areas	Development, uses, and activities adjacent to critical areas, including critical saltwater habitats and fish and wildlife habitat conservation areas, proposed within shorelines of the state shall <u>be monitored</u> to assure that these areas are not being adversely impacted by approved development or restoration projects <u>consistent with Section 4.1.2. monitoring and mitigation requirements and the monitoring and mitigation requirements in Appendix B..</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
25	BI 3.3.1.3(4)	Aquatic Designations Management Policies	Aquaculture practices should be limited to those activities that can demonstrate that significant impacts to ecological functions, ecosystem-wide processes, and adjacent land uses will not occur. Aquaculture should be encouraged in those tidelands, waters and beds most suitable for such use. Intensive shellfish aquaculture is prohibited.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
26	BI 8	Definitions	Houseboat—A particular type of vessel licensed and designed for use as a mobile structure with adequate self-propulsion and steering equipment to be operated as a vessel but also characterized by detachable utilities or facilities for residential use. When principally used as an over-water residence, it is a “live-aboard vessel.” Floating Home—A non-vessel structure designed and operated substantially as a permanently based over-water residence. Floating homes lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities. <u>Floating house - any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating houses" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel as provided in subsection (74) of this section. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self propulsion and use as a means of transportation is a floating house, not a vessel.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.

27	Title 2	G. Shoreline Variance-Major Minor	<p><u>f. The Administrator shall mail the final City decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight (8) days of the date of the decision. Within eight (8) days of the date of the decision, the Administrator shall also mail the decision to any person who requested notice of the decision.</u></p> <p><u>g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline variances approved by the City. Ecology's decision must be made within thirty (30) days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the City informing them of the decision. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons who requested notification.</u></p> <p><u>3. Decision Criteria</u></p> <p><u>Pursuant to WAC 173-27-210 170 or its successor, the criteria below constitute the minimum criteria for review and approval of a shoreline variance permit.</u></p> <p><u>a. Shoreline variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), and/or landward of any wetland, as defined in BIMC 16.12, may be authorized provided the applicant can demonstrate all of the following:</u></p> <p><u>i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;</u></p> <p><u>ii. The hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;.</u></p> <p><u>iii. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment</u></p> <p><u>iv. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area</u></p> <p><u>v. The variance requested is the minimum necessary to afford relief; and</u></p> <p><u>vi. The public interest will suffer no substantial detrimental effect.</u></p> <p><u>b. Shoreline variance permits where the development will be located either waterward of the ordinary high water mark (OHWM) or within or within any wetland, defined in BIMC 16.12, may be approved or approved with conditions or modifications subject to approval by Ecology, if the decision maker finds the applicant has demonstrated compliance with all of the following criteria:</u></p> <p><u>i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;</u></p> <p><u>ii. The proposal is consistent with the criteria established under subsection (3)(ii) through (vi) of this section; and</u></p> <p><u>iii. The public rights of navigation and use of the shorelines will not be adversely affected</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
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28	Title 2	H.2. Procedure	<p><u>b. Minor Shoreline Conditional Use</u></p> <p><u>f. The Administrator shall mail the final City decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight (8) days of the date of the decision. Within eight (8) days of the date of the decision, the Administrator shall also mail the decision to any person who requested notice of the decision.</u></p> <p><u>g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline conditional use permits approved by the City. Ecology's decision must be made within thirty (30) days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the City informing them of the decision. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons who requested notification.</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
29		H. 3 Conditional Use Permit	<p><u>i. The proposed use will be consistent with the policies of RCW 90.58.020 or its successor and the policies of the Master Program;</u></p> <p><u>ii. The proposed use will not interfere with the normal public use of the public shorelines;</u></p> <p><u>iii. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;</u></p> <p><u>iv. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is located;</u></p> <p><u>v. The public interest suffers no substantial detrimental effect. [WAC 173-14-140(1) or its successor]; and</u></p> <p><u>vi. The proposed use is consistent with the provisions of the Zoning Ordinance (BIMC Title 18).</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
30	Title 2	Table 2.16.010-1 Summary Table of Land Use Procedures	<u>Minor Shoreline Conditional Use (1)</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.

Bainbridge Island City Council Approved Recommended SMP Language Changes

Item	SMP Submittal Provision	Topic	Ecology's Recommended Changes	Bainbridge Island City Council Action
1	BI 5.2.2(2)	Aquaculture Policies	Identify and encourage aquaculture activities which may provide opportunities for creating ecosystem improvements <u>and result in no net loss of ecological functions.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
2	BI 5.2.2(2)(A)	Aquaculture Policies	Engage in coordinated planning to identify potential aquaculture areas and assess regional long term needs for aquaculture and coordinated education efforts to provide information on best practices to those operating small scale aquaculture for personal use and consumption. This includes working with the Department of Fish and Wildlife (WDFW), the Department of Natural Resources (DNR), area Tribes and shellfish interests to identify areas that are suitable for aquaculture and protect them from uses that would threaten aquaculture's long-term sustainability.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
3	BI 5.2.2(2)	Aquaculture Policies	Allow experimental forms of aquaculture involving the use of new species, new growing methods, or new harvesting techniques when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time. When feasible, limit or restrict new development <u>and uses proposals</u> in areas that affect existing experimental <u>aquaculture monitoring programs.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
4	BI 5.2.2(3)	Aquaculture Policies	Limit aquaculture, including intensive shellfish aquaculture to activities that do not create adverse impacts to ecological functions and ecosystem wide process.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
5	BI 5.2.2	Aquaculture Policies	or interfere with navigation or other water dependent uses.	City Council approved on November 20, 2013 as proposed by Department of Ecology.
6	BI 5.2.2	Aquaculture Policies	<u>Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses.</u> Prohibit intensive aquaculture where such development or activity would: <div style="margin-left: 40px;">a. Result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or</div>	City Council approved on November 20, 2013 as proposed by Department of Ecology.
7	BI 5.2.2(5)	Aquaculture Policies	b. <u>Aquaculture facilities should be designed and located to not spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.</u> c. <u>Impacts to ecological functions shall be mitigated according to WAC 173-26-201(2)(e) and (XXX).</u> Results in the spreading of disease, the introduction of non-native species, or impacts to shoreline aesthetic qualities, or	City Council approved on November 20, 2013 5.2.2(5)(b) as proposed by Department of Ecology. City Council approved alternative language: c. Impacts to ecological functions <u>should</u> be mitigated according to WAC 173-26-201(2)(e) and <u>Section 4.1.2 Environmental Impacts.</u>
8	BI 5.2.2 (5)	Aquaculture Policies	Result in impacts to other existing and approved land and water uses which would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, active scientific research, and/or the aesthetic qualities of a project area; and/or	City Council approved on November 20, 2013 as proposed by Department of Ecology

9	BI 5.2.2	Aquaculture Policies	<p>Result in impacts to where water quality, temperature, oxygen content, current, and salinity restrictions make the area unsuitable for the type(s) of aquaculture under consideration.</p> <p>5. Prohibit Community Shellfish Gardens where such development or activity would:</p> <p>a. Result in any significant adverse environmental impacts or aesthetic impact that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or</p> <p>b. Where impacts to other existing and approved land and water uses would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, and/or active scientific research; and/or</p> <p>c. Be unsuitable due to water quality, temperature, oxygen content, current, and salinity restrictions for the type(s) of aquaculture under consideration.</p> <p>Ensure Shellfish Gardens consider aesthetic impacts as part of the site design process.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology
10	BI 5.2.2	Aquaculture Policies	<p>Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, <u>and</u> limited substrate modification, and that<u>don't rely</u> reliance on artificial feeding.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology
11	BI 5.2.2	Aquaculture Policies	<p>Ensure aquaculture does installation of net pens, raft cultures or surface embedded structures do not cause cumulative environmental impacts. and aesthetic impacts, or interfere with navigation.</p>	<p>City Council approved alternative language on November 20, 2013:</p> <p>Ensure aquaculture does not cause cumulative <u>environmental, aesthetic, and recreational impacts</u></p>
12	BI 5.2.3(1)	Aquaculture Prohibited	<p>Aquaculture is <u>prohibited</u> in the Natural and Priority Aquatic designations, except as provided in Section 5.2.4 (1), below.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology
13	BI 5.2.3(2)	Aquaculture Prohibited	<p>Aquaculture, except individual Shellfish Gardens in the following areas:</p> <p>a. Areas where intensive aquaculture development would have potential adverse impacts on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.</p> <p>i. Community Shellfish Garden is prohibited in areas listed in (a) above except <u>the</u> use may be allowed when adverse aesthetic impacts are avoided or adequately mitigated through enforceable conditions of approval.</p> <p>b. Areas where an aquaculture proposal will result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.</p> <p>c. Areas devoted to established uses of the aquatic environment with which the proposed aquacultural method(s) would substantially and materially conflict. Such uses would include, but are not limited to navigation, moorage, sport or commercial fishing, log rafting, underwater utilities and active scientific research.</p>	City Council approved on November 20, 2013 as proposed by Department of Ecology

14	BI 5.2.3(2)	Aquaculture Prohibited	Areas that have water quality, temperature, oxygen content, current, and salinity restrictions that make the areas unsuitable for the type(s) of aquaculture under consideration.	City Council approved on November 20, 2013 as proposed by Department of Ecology
15	BI 5.2.3	Regulations Prohibited	Mechanical and/or hydraulic harvesting or other activities that involve substantial substrate modification through dredging, trenching, or digging	City Council approved on November 20, 2013 as proposed by Department of Ecology
16	BI 5.2.4(3)	Agriculture Regulations General	<p>Aquaculture facilities shall avoid:</p> <ul style="list-style-type: none"> a. A net Loss of ecological functions or processes; b. Adverse impacts to eelgrass and macro algae; c. Significant conflicts with navigation and water-dependent uses; d. The spreading of disease to native aquatic life; e. <u>Establishing new</u> Introduction of non-native species that <u>cause significant ecological impacts; and/or</u> f. <u>Significant i</u>mpacts to shoreline aesthetic qualities. <p>4. Shellfish Gardens shall minimize adverse aesthetic impacts and be restricted in the areas described in Section 5.2.3(2)(b)(c) and (d).</p>	City Council approved on November 20, 2013 5.2.4(3)(a) through (f) as proposed by Department of Ecology. City Council approved alternative language : <u>g. Significant modifications of the substrate.</u>
17	BI 5.2.5 (3)	Aquaculture Regulations Design Standards	Hatchery and other aquaculture operations shall be required to maintain a vegetated buffer zone along the affected stream way as prescribed <u>in</u> Appendix B, provided that clearing of vegetation shall be permitted for essential water access points.	City Council approved on November 20, 2013 as proposed by Department of Ecology
18	BI 5.2.5 (6)	Aquaculture Regulations Design Standards	Floating/hanging aquaculture facilities, and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts. All materials, including those used for incidental aquacultural for personal consumption, shall be marked with owners contact information to provide identification after storm disturbance. <u>All floating and submerged aquaculture structures and facilities in navigable waters shall comply with all applicable state and federal requirements.</u>	City Council approved on November 20, 2013 as proposed by Department of Ecology
19	BI 5.2.5 (10) Aquaculture	Regulations Design Standards	<ul style="list-style-type: none"> a. <u>It complies with all state and federal regulations, including transfer and harvest permits required by WDFW.</u> b. The cultivation and harvesting is limited to native species of shellfish <u>acquired from a licensed source consistent with state law; and</u> 	City Council approved on November 20, 2013 5.2.5(10)(a) as proposed by Department of Ecology City Council approved alternative language: b. The cultivation and harvesting is limited to native species of shellfish acquired from a licensed source consistent with state law; and
20	BI 5.2.5 (10) Aquaculture	Regulations Design Standards	c. The operation may utilize bottom culture or off-bottom culture bags if in is accordance with best management practices and <u>it does not</u> shall significantly alter the tidal bed; and	City Council approved on November 20, 2013 as proposed by Department of Ecology
21	BI 5.2.6(2)	Aquaculture Regulations Operational Standards	<p>2. Aquaculture occurring on nonconforming aquaculture sites is not considered discontinued or abandoned until the use has ceased for a period of more than 5 years.</p> <p><u>e.d .Aquaculture operations that do not conform with this master program are considered discontinued if the use has ceased for a period of more than 5 years.</u></p>	City Council approved on November 20, 2013 as proposed by Department of Ecology

22	BI 5.2.7	Aquaculture Submittal Requirements	Submittal Requirements (a-m)	City Council approved on November 20, 2013 as proposed by Department of Ecology
23	BI 4.1.5.5	Critical Area Regulations -Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat	Regulations – Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat	City Council approved on November 20, 2013 as proposed by Department of Ecology
24	Appendix A	Designations	Shoreline Designation change for McNabb Parcel B located at 4200 Eagle Harbor Drive (CPA-REZ 13220B subject to execution of Boundary Line Adjustment) from Shoreline Residential Conservancy to Urban designation.	City Council approved on November 20, 2013 as proposed by Department of Ecology
25	5.3.1	Boating Facilities Applicability	Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in BIMC Chapters 12.24, Waterfront Park and Other City Harbors, and 12.40, Watercraft and Floating Homes, and may also apply. See Section 6.3.7.7 and 8, for regulations governing mooring buoys. Boating facility development and/or renovation shall comply with all other applicable state and federal agency policies and regulations including, but not limited to the Department of Fish and Wildlife, <u>Department of Natural Resources</u> , Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10 33 USC § 403), U.S. Army Corps of Engineers dredging standards (33 USC § 403), and state and federal standards for the storage of fuels and toxic materials.	City Council approved on November 20, 2013 as proposed by Department of Ecology
26	6.1.5	Regulations-General	All applicable federal and state permits, including the Army Corps of Engineers, <u>Washington Department of Natural Resources</u> , and the Washington Department of Fish and Wildlife shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.	City Council approved on November 20, 2013 as proposed by Department of Ecology
27	6.3.8	Submittal Requirements Piers, Docks, Floats and Buoys	<p>A scaled drawing that indicates the proposed location of: piers, floats, docks, and float storage location, if applicable, relative to the following:</p> <ul style="list-style-type: none"> a. property lines; and b. OHWM; and c. The line of navigation, the construction limit line or the harbor structure limit line, as applicable; and d. Provide contours at two-foot (2') interval for a twenty-five feet (25') distance to the right, left, and end of proposed structure, as measured from projects center line; e. <u>Location of state-owned aquatic lands in relation to the project.</u> 	City Council approved on November 20, 2013 as proposed by Department of Ecology

Bainbridge Island City Council Approved SMP Alternative Language

Item	SMP Submittal Provision	Topic	Language from the June 7, 2013 draft SMP submitted to Ecology	Bainbridge Island City Council Action
1	Table 4-1	4-1 Use Table	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: Add foot note to allow mixed use development in areas within the Mixed Use Town Center zones, when physically separated from the shoreline by another parcel and in accordance with 5.4.
2	4.1.3.8(3)(e)(iii)	Shoreline Vegetation Alteration	<p>Stairways shall not exceed 250 square feet and are not included in the total square footage allocations prescribed in subsections a through c above. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.</p> <p>A. As an alternative to a staircase larger than 250 square feet and to reduce environmental impacts, a tram may be allowed without a variance.</p>	<p>City Council approved alternative language on November 20, 2013:</p> <p>4.1.3.7(3) Stairways <u>to the shoreline</u> shall not exceed 250 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections 4.1.3.8. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04.</p> <p><u>A. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.</u></p> <p><u>Ai. As an alternative to a stairway larger than 250 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.</u></p> <p><u>B. Stairway design shall meet the following minimum criteria:</u></p> <p><u>1. International Codes for:</u></p> <p><u>a. Hand Railings;</u></p> <p><u>b. Stairway width; and</u></p> <p><u>c. Tread Depth.</u></p> <p><u>2. Landings are required, unless demonstrated not to be necessary, and shall be determined by:</u></p> <p><u>a. Existing site topography;</u></p> <p><u>b. Personal safety; and</u></p> <p><u>c. Slope stability.</u></p>
3	4.1.3.10(4)(a)	Shoreline Vegetation Alteration	a. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.	City Council approved alternative language on November 20, 2013: Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4-2) feet on either side of the trail, and no significant trees are removed.
8	5.2.5(11)	Aquaculture Regulations	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: <u>The following shall be limited to the minimum size or number necessary for approved aquaculture development, uses, activities:</u>
				<p><u>a. Submerged or intertidal structures.</u></p> <p><u>b. Land-based facilities.</u></p> <p><u>c. Structures which modify substrate.</u></p>
10	5.2.5(4)	Aquaculture Regulations	Move existing language in the June 7, 2013 transmittal to Department of Ecology from 5.2.5(4) to 5.2.5(1).	City Council approved alternative language on November 20, 2013: Floating and submerged aquaculture structures shall be located to minimize interference with navigable waters and the public's use of the water and shoreline. Floating structures shall

				remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body. <u>Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed 6 feet in height, as measured from water surface.</u>
12	5.4.4(1)(d)	Commercial Development	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: <u>Water-Oriented and non-water oriented commercial uses may be permitted in a mixed-use development within the Mixed Use Town Center districts provided:</u> <u>i. The site is physically separated from the shoreline by another property in separate ownership or by a public-right-of-way such that water access is precluded, provided that the property conditions were lawfully established prior to the effective date of this Program; and</u> <u>ii. Water-oriented commercial or non-water oriented commercial development is subordinate to the residential use.</u>
13	5.9.5(8)	Residential Development	a. Building. The minimum side setback shall be that established by BIMC Title 18, Zoning. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary structure. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences may have an additional two feet (2') of non-screening material for a total of six feet (6'). Approved Shoreline Stabilization measures may be installed within the side setbacks.	City Council approved alternative language on November 20, 2013: a. Building. The minimum side setback shall be that established by BIMC Title 18, Zoning. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary <u>residential</u> structure (insert figure). <u>i. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences on the side property line may have an additional two feet (2') of non-screening material for a total of six feet (6'). Approved Shoreline Stabilization measures.</u>
14	6.2.4(1)	Shoreline Stabilization	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: <u>Sheet pile style hard stabilization may be allowed for remediation and hybrid shoreline stabilization projects in accordance with 6.2.5</u>
15	6.2.5(3)(c)	Shoreline Stabilization	No existing language in the June 7, 2013 transmittal to Department of Ecology.	City Council approved alternative language on November 20, 2013: <u>Sheet pile style hard stabilization may be used in:</u> <u>a. Remediation projects to contain contaminated soils or sediments when demonstrated to the satisfaction of the Administrator to be the most appropriate solution; or</u> <u>b. Hybrid stabilization when used as a stop-gap measure at or near extreme high water.</u>
16	7.2.6	Violations, Enforcement, and Penalties	Violation Mitigation/Restoration Plan Any Mitigation/Restoration Plan (Plan) required by the City after disturbance has occurred shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Ares including Appendix B; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation. All development work shall remain stopped until a Plan is approved by the Administrator. The Plan must be prepared at the expense of the violator, and submitted by the owner or other responsible party for approval by the Administrator. Such a Plan shall be prepared by a qualified professional using the best available science. The Administrator may, at the violator's expense, seek expert advice, including an independent third party review, in determining the adequacy of the Plan. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal. Failure to submit a Plan shall be unlawful. Failure to implement the approved Plan shall be a criminal misdemeanor.	City Council approved alternative language on November 20, 2013: Any Mitigation/Restoration Plan (Plan) required by the City after <u>for a disturbance not authorized by this shoreline management program or approved by the City</u> has occurred shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Ares including Appendix B; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation. <u>Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration plan pursuant to this section, shall be guilty of a misdemeanor and provide shoreline restoration, in accordance with provision of this program, at a rate of 200% times (2 to 1) the impacted area.</u>

17	7.2.7	Violations, Penalties, and Enforcement	<p>Civil Infraction</p> <p>Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement.</p>	<p>City Council approved alternative language on November 20, 2013:</p> <p>Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement <u>and in compliance with WAC 173-27-280</u></p>
18	7.2.9	Violations, Penalties, and Enforcement	<p>Civil Penalty</p> <p>In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this Program shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090. Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration pursuant to Section 7.2.6, Violation Mitigation/Restoration Plan, shall be guilty of a misdemeanor punishable by not more than 30 days in jail and/or not more than a \$1,000 fine and provide shoreline restoration, in accordance with provision of this program, at a rate of 200% times the impacted area.</p>	<p>City Council approved alternative language on November 20, 2013:</p> <p>In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, <u>any person who shall fail to conform to the terms of a permit or exemption issued under this shoreline master program or who shall undertake development on the shorelines of the state without first obtaining any permit or exemption required under this shoreline master program shall also be</u> any person engaging in conduct made unlawful by this Program shall be subject to a cumulative civil penalty in the amount of not to exceed \$1,000 per day for each violation, <u>each permit violation or each day of continued development without a required permit shall constitute a separate violation [RCW 90.58.210 or successor];</u> from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.</p> <p>Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration pursuant to Section 7.2.6, Violation Mitigation/Restoration Plan, shall be guilty of a misdemeanor punishable], by not more than 30 days in jail and/or not more than a \$1,000 fine and provide shoreline restoration, in accordance with provision of this Aprogram, at a rate of 200% times the impacted area.</p>
19	7.2.10	Violations, Penalties, and Enforcement	No existing language in the June 7, 2013 transmittal to Department of Ecology. Add new section titled General Penalty.	<p>City Council approved alternative language on November 20, 2013:</p> <p><u>In addition to incurring civil liability under section 7.2.9 Civil Penalty, any person, party, firm, corporation, or other legal entity found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this shoreline master program’s rules, or regulations as adopted shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars [RCW 90.58.220, or successor].</u></p>
20		Administrative		<p>City Council approved alternative language on November 20, 2013:</p> <p>Moved submittal requirements to Administrative Manual.</p>

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Ecology Required Changes

The following changes are required.

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	BI 5.2.1	Aquaculture Applicability	These provisions apply to the commercial cultivation and harvesting of fish, shellfish or other aquatic animals or plants, but also to non-commercial harvesting, and to the incidental preparation of fish and shellfish for human consumption, or cultivation for restoration purposes. Incidental small scale aquaculture that is strictly for personal consumption may be considered accessory to residential use and must adhere to all applicable regulations in this program.	Aquaculture for personal consumption may also occur on property other than residential. Also, Table 4-1 allows Shellfish Gardens in multiple environment designations where uses other than residential may occur. Deleting this statement would make this regulation and the use table consistent.
2	BI 5.2.1	Aquaculture Applicability	Aquaculture activities may not be <u>are not considered dredging nor</u> subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal, <u>depending on site specific circumstances.</u>	The City should not be inconsistent with federal law. Certain aquaculture activities may be considered dredging under federal law, depending on site specific conditions. The required change will ensure projects are not automatically subject to Section 6.4, but also will not conflict with Nationwide Permit 48 <u>under federal regulations.</u>

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3	BI 5.2.2	Aquaculture Applicability	Aquaculture is dependent on the use of the water and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Recognize that w When properly managed, aquaculture can result in long-term <u>over short-term</u> ecological and economic benefit and can protect the resources and ecology of the shoreline.	For consistency with WAC 173-26-241(3)(b)(i). The WAC contains “consistent with control of pollution and prevention of damage to the environment” and other qualifiers that are important to interpretation and application of the SMA and WAC.
4	BI 5.2.2(3)	Aquaculture policies	Prohibit aquaculture where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species including eelgrass, kelp, and other macroalgae; adversely impact City and state critical habitat areas and other habitat conservation areas;	Commercial, subsistence and recreational shellfish beds are critical saltwater habitats. Having this statement here results in circular reasoning. Typically, the CAO language is adequate to meet the intent here, without creating conflicts within the aquaculture provisions
5	BI 5.2.2(7)	Aquaculture Policies	Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, <u>and</u> limited substrate modification, and <u>that don’t rely</u> reliance on artificial feeding.	Replace “reliance” with “don’t rely” to better describe intent.
6	BI 5.2.3(3)(e)	Aquaculture Regulations- Prohibited	Areas that do not have potential to support native populations of the type(s) of aquaculture under consideration.	Pacific oysters, manila clams, Atlantic salmon, and other species currently cultured and farmed are not native species. This policy constitutes a defacto ban on an overwhelming majority of aquaculture.
7	BI 5.2.3(4)	Aquaculture Regulations- Prohibited	Aquaculture that uses or releases herbicides, pesticides, antibiotics, fertilizers, non-indigenous species, parasites, pharmaceuticals, genetically modified organisms, feed or other materials known to be potentially harmful into surrounding waters is prohibited unless: 1) except that the following may be allowed: a. Experimental forms of aquaculture involving new species, new growing methods or new	To be consistent with WAC 173-26-241(3)(b)(i) . The WAC contains “consistent with control of pollution and prevention of damage to the environment” and other qualifiers that are important to interpretation and application of the SMA and WAC.

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		<p>harvesting techniques may be allowed consistent with this Program and applicable state and federal regulations.</p> <p>b. Shellfish seeding/culturing may be permitted when conducted for native population recovery in accordance with government/Tribal approved plan <u>and all state and federal regulations or</u></p> <p>c. Pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemical applications for aquacultural operations unless approved by all <u>only if prior approval is obtained from all appropriate state and federal agencies, including, including but not limited to, the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fish and Wildlife and Agriculture, as required, and 2) proof thereof is submitted to the City.</u></p>	<p>Pacific oysters, manila clams, Atlantic salmon, and other species currently cultured and farmed are not native species. This policy constitutes a defacto ban on an overwhelming majority of aquaculture.</p> <p>Commercial aquaculture already requires state and federal permits which address these issues. The proposed language would be inconsistent with what is currently permitted through state and federal law and regulations.</p> <p>It's important to note that net pens of native salmon are not permitted by WDFW, due to the risk to native salmon from escapement and disease transfer.</p> <p>For more information, see Marine Net Pens Science Forum videos http://www.youtube.com/playlist?list=PL8BmI4b96dKZ5rdChrLsl-e5fxeGMHsLA and Appendix C of the Aquaculture Interim Guidance http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/aquaculture_guidance.pdf</p>
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8	BI 5.2.3	Aquaculture Prohibited	shall be prohibited in existing kelp beds or in beds of native eel grass (<i>Zostera marina</i>) containing more than two (2) turions per one quarter (1/4) square meter in winter or three (3) turions per one quarter (1/4) square meter in summer.	<p>The DNR definition of ‘eelgrass bed’ may change over time, and is not used by all state and federal agencies, including Ecology Water Quality Certifications, Section 401, administered for new geoduck aquaculture projects.</p> <p>Not defining what constitutes a "bed" allows the City to rely on the most current science at the time of project review. Also, including "other substantial substrate modification" allows the City to include new aquaculture techniques that may be developed and proposed in the future. It's important to note that this will only apply to new aquaculture, and to existing beds at the time of review.</p>
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9	BI 5.2.4(1)	Regulations General	<p>5.2.4 Regulations - General</p> <p>1. Aquaculture may be allowed as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations and as provided below:</p> <p>a. Community Shellfish Gardens may be <u>are</u> allowed as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, <u>Shoreline Residential and Urban</u> designations and in adjacent Aquatic designations except Priority Aquatic (unless as part of an approved restoration project).</p> <p>b. Individual Shellfish Gardens may be <u>are</u> allowed in the Island Conservancy, Shoreline Residential Conservancy, <u>Shoreline Residential and Urban</u>, Shoreline designations, and in adjacent Aquatic <u>designation</u> designations <u>Priority B</u>. They also are <u>allowed in Aquatic Priority A when for the recovery of native populations, restoration, or personal use as defined Aquaculture 16.12.5.3.</u> except in Priority Aquatic A (unless as part of an approved restoration project).</p>	Reword for clarity and be consistent with Table 4-1, Shoreline Use and Modification Activity Matrix
10	BI 5.2.4(5)	Regulations General	Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to, or destruction of, a legally established aquacultural enterprise shall be grounds for modification or denial of that use.	Delete or offer alternative language. This regulation appears to overreach the authority of Chapter 173-26 WAC because it applies to all existing aquaculture, including harvesting for personal consumption, and all non-aquaculture uses such as other water-dependent uses. <u>Appears to be inconsistent with intent of SMA and SMP Guidelines to develop policies and regulations to address inherent incompatibility of shoreline uses.</u>

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11	BI 5.2.5	Regulations Design Standards	Floating and submerged aquaculture structures shall be located to <u>avoid or minimize</u> interference with <u>navigation</u> navigable waters and the <u>normal</u> public's use of <u>the surface waters</u> . the water and shoreline	Edit as noted. Change wording to make it more consistent with language used in WAC 173-26-241(3)(b) and to acknowledge that mitigation is first about avoidance, then minimization of impacts.
12	BI 5.2.5(2)	Regulations Design Standards	Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall <u>avoid or</u> minimize detrimental impacts to the shoreline.	Edit as noted to acknowledge that mitigation is first about avoidance, then minimization of impacts.
13	BI 5.2.5(4)	Regulations Design Standards	Onshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Standards Matrix, except that reduced setbacks may be permitted <u>through</u> a shoreline variance where necessary for the operation of hatcheries and rearing ponds. Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed 6 feet in height, as measured from <u>the ground</u> water surface	Edit as noted if this section refers to onshore structures, not overwater structures
14	BI 5.2.5(5)	Regulations Design Standards	Aquacultural proposals that include net pens or rafts shall not be located closer than one (1) nautical mile to any other aquacultural facility that includes net pens or rafts, provided that a lesser distance may be authorized by the Administrator if the applicant can demonstrate to the satisfaction of the Administrator that the environmental and aesthetic concerns expressed in the Master Program shall be addressed. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of the Master Program.	Provide No rationale for the 1 mile distance is <u>provided</u> . Modify to allow consideration of site potential and circumstances to determine if grouping is needed or not, and what distance if any is appropriate. Grouping uses in one location actually may reduce aesthetic and environmental impacts, rather than spreading them along a longer length of shoreline and viewshed. Projects must meet the environmental and aesthetic concerns regardless of where they are located in proximity to each other. Cumulative impacts may be considered as

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				part of any project proposal review. Since a CUP is required for almost all aquaculture projects, the city has the authority to consider and address cumulative impacts, and require mitigation or limits or conditions to those reduce impacts.
15	BI 5.2.5 (9)	Aquaculture Design Standards	Except as provided in Section 5.2.5(1), aquacultural developments approved on an experimental basis shall not exceed five (5) acres in area, except anchorage for floating systems, and five (5) years in duration;	Required change. It appears the Inventory and Characterization and the CIA don't provide rationale for the 5 acre limit and 5 year permit duration, and are arbitrary. Please delete or provide rationale.
16	BI 5.2.5 (10)	Aquaculture Design Standards	Shellfish Gardens for personal consumption are allowed <u>on private lands</u> as an accessory use to a primary residential use provided the following can be met:	Aquaculture for personal consumption may occur on private property other than residential. Also, Table 4-1 allows Shellfish Gardens in multiple environment designations where uses other than residential may occur. Deleting this statement would make this regulation and the table consistent.
17	BI 5.2.5 (10)(c)	Aquaculture Design Standards	The area used for cultivation is no greater than 400 square feet in area.	There appears to be no rationale provided in the Inventory and Characterization and CIA for the 400 square feet limit. Delete or provide rationale.

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18	BI 5.2.6(6)	Aquaculture Operational Standards	When feasible the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and applications. <u>All nets will shall be maintained and cleaned in accordance with all applicable state NPDES permit and federal requirements.</u>	<u>All commercial geoduck operations require 401 water quality certifications that include requirements for maintaining nets.</u>
19	BI 5.2.8	Aquaculture Commercial Geoduck Requirements	<u>5.2.8 Commercial Geoduck Requirements</u> <u>In addition to other provisions in section 5.2, commercial geoduck aquaculture will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv). Where there is inconsistency between the provisions in 5.2.1, 5.2.2., 5.2.3, 5.2.4, 5.2.5, 5.2.6 or 5.2.7 and the geoduck provisions, the specific commercial geoduck provisions apply.</u> <u>A conditional use permit is required for all new commercial geoduck aquaculture and conversions from existing non-geoduck aquaculture to geoduck aquaculture. CUPs for new commercial geoduck and conversions will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv).</u>	Add commercial geoduck policies and regulations as needed to ensure the SMP aquaculture provisions comply with WAC 173-26-241(3)(b)(ii)-(iv). The policies, regulations, standards and application requirements noted above do not meet WAC 173-26-241(3)(b)(ii-iv) in its entirety. One way to comply would be to adopt the WAC subsections by reference.
20	BI 1.2.2 (2)	Scope of Shoreline Management Act	2. Segments of streams and rivers with a <u>where the</u> mean annual flow <u>is more than</u> 20 cubic feet per second (cfs) or more ;	For consistency with RCW 90.58.030(2) (e)
21	BI 1.2.2 (3)	Scope of Shoreline Management Act	3. Lakes and reservoirs 20 acres and greater larger than 20 acres in area;	For consistency with RCW 90.58.030(2) (e)
22	BI 1.2.2(4)	Scope of Shoreline Management Act	4. Wetlands (a specific Shoreline Management Act term which includes related upland, shoreland, and wetland areas) associated with all of the above; and <u>Shorelands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters.</u>	For consistency with RCW 90.58.030(2)(d)

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23	BI 3.3.2.2		Priority Aquatic shall be designated as follows: 1. Priority Aquatic Category A is more protective and intended to be the default classification. a. <u>Those areas previously designated Aquatic Conservancy are as of the adoption of this date XXX XX, 2013 of this SMP, shall be</u> are designated Priority Aquatic Category A. 2. Priority Aquatic areas located adjacent to upland areas with a high level of existing development will be classified as <u>are</u> Priority Aquatic B.	For clarity of designations and intent
23	BI 4.1.5.4 (2)	Critical Areas	Development, uses, and activities adjacent to critical areas, including critical saltwater habitats and fish and wildlife habitat conservation areas, proposed within shorelines of the state shall <u>be monitored</u> to assure that these areas are not being adversely impacted by approved development or restoration projects <u>consistent with Section 4.1.2. monitoring and mitigation requirements and the monitoring and mitigation requirements in Appendix B..</u>	To ensure consistency with WAC 173-26-201(2)(e)
24	BI 3.3.1.3 (4)	Aquatic Designations Management Policies	Aquaculture practices should be limited to those activities that can demonstrate that significant impacts to ecological functions, ecosystem-wide processes, and adjacent land uses will not occur. Aquaculture should be encouraged in those tidelands, waters and beds most suitable for such use. Intensive shellfish aquaculture is prohibited.	For consistency with the WAC 173-26-241(3)(b) and the SMP Use Table

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25	BI 8	Definitions	<p>Houseboat—A particular type of vessel licensed and designed for use as a mobile structure with adequate self propulsion and steering equipment to be operated as a vessel but also characterized by detachable utilities or facilities for residential use. When principally used as an over-water residence, it is a “live-aboard vessel.”</p> <p>Floating Home—A non-vessel structure designed and operated substantially as a permanently based over-water residence. Floating homes lack adequate self propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.</p> <p>Floating house - <u>any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating houses" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel as provided in subsection (74) of this section. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self propulsion and use as a means of transportation is a floating house, not a vessel.</u></p>	For consistency with WAC 332-30
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26	Title 2	G. Shoreline Variance-Major Minor	<p><u>f. The Administrator shall mail the final City decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight (8) days of the date of the decision. Within eight (8) days of the date of the decision, the Administrator shall also mail the decision to any person who requested notice of the decision.</u></p> <p><u>g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline variances approved by the City. Ecology's decision must be made within thirty (30) days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the City informing them of the decision. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons who requested notification.</u></p> <p><u>3. Decision Criteria</u></p> <p><u>Pursuant to WAC 173-27-210 170 or its successor, the criteria below constitute the minimum criteria for review and approval of a shoreline variance permit.</u></p> <p><u>a. Shoreline variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), and/or landward of any wetland, as defined in BIMC 16.12, may be authorized provided the applicant can demonstrate all of the following:</u></p> <p><u>i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;</u></p> <p><u>ii. The hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;</u></p> <p><u>iii. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment</u></p> <p><u>iv. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area</u></p> <p><u>v. The variance requested is the minimum necessary to afford relief; and</u></p> <p><u>vi. The public interest will suffer no substantial detrimental effect.</u></p> <p><u>b. Shoreline variance permits where the development will be located either waterward of the ordinary high water mark (OHWM) or within or within any wetland, defined in BIMC 16.12, may be approved or approved with conditions or modifications subject to approval by Ecology, if the decision maker finds the applicant has demonstrated compliance with all of the following criteria:</u></p> <p><u>i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;</u></p> <p><u>ii. The proposal is consistent with the criteria established under subsection (3)(ii) through (vi) of this section; and</u></p> <p><u>iii. The public rights of navigation and use of the shorelines will not be adversely affected</u></p>	For consistent with WAC 173-27-160 & 170
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27	Title 2	H.2. Procedure	<p><u>b. Minor Shoreline Conditional Use</u></p> <p><u>f. The Administrator shall mail the final City decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight (8) days of the date of the decision. Within eight (8) days of the date of the decision, the Administrator shall also mail the decision to any person who requested notice of the decision.</u></p> <p><u>g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline conditional use permits approved by the City. Ecology's decision must be made within thirty (30) days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the City informing them of the decision. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons who requested notification.</u></p>	For consistent with WAC 173-27-160 & 170
28		H. 3 Conditional Use Permit	<p><u>i. The proposed use will be consistent with the policies of RCW 90.58.020 or its successor and the policies of the Master Program;</u></p> <p><u>ii. The proposed use will not interfere with the normal public use of the public shorelines;</u></p> <p><u>iii. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;</u></p> <p><u>iv. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is located;</u></p> <p><u>v. The public interest suffers no substantial detrimental effect, [WAC 173-14-140(1) or its successor]; and</u></p> <p><u>vi. The proposed use is consistent with the provisions of the Zoning Ordinance (BIMC Title 18).</u></p>	For consistent with WAC 173-27-160 & 170
29	Title 2	Table 2.16.010-1 Summary Table of Land Use Procedures	<p><u>Minor Shoreline Conditional Use (1)</u></p>	For consistent with WAC 173-27-160 & 170

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Ecology Recommended Changes

The following changes are recommended to clarify elements of the City’s updated SMP

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	BI 5.2.2(2)	Aquaculture Policies	Identify and encourage aquaculture activities which may provide opportunities for creating ecosystem improvements <u>and result in no net loss of ecological functions.</u>	Most development and uses can document “ecosystem improvements”. It is the no net loss that is the standard NNL is already captured in other policies.
2	BI 5.2.2(2)(A)	Aquaculture Policies	Engage in coordinated planning to identify potential aquaculture areas and assess regional long-term needs for aquaculture and coordinated education efforts to provide information on best practices to those operating small-scale aquaculture for personal use and consumption. This includes working with the Department of Fish and Wildlife (WDFW), the Department of Natural Resources (DNR), area Tribes and shellfish interests to identify areas that are suitable for aquaculture and protect them from uses that would threaten aquaculture’s long-term sustainability.	The city’s intentions to engage in coordinated planning and education does not need to be contained here in the SMP. As written, this policy doesn’t lay the foundation for any of the regulations except possibly 5.2.3.2, which uses the term “areas”. Since it is a Required Change to strike 5.2.3.2, it is recommended to delete this policy.
3	BI 5.2.2(2)	Aquaculture Policies	Allow experimental forms of aquaculture involving the use of new species, new growing methods, or new harvesting techniques when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time. When feasible, limit or restrict new development <u>and uses proposals</u> in areas that affect existing experimental <u>aquaculture monitoring programs</u> .	Add “uses” and strike proposals to make this policy apply to all potential shoreline proposals. Replace “monitoring programs” with “aquaculture”, to allow a broader application of the policy, and make the last sentence more consistent with the first.
4	BI 5.2.2(3)	Aquaculture Policies	Limit aquaculture, including intensive shellfish aquaculture to activities that do not create	Most development and uses create “adverse impacts to ecological functions and ecosystem-

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			adverse impacts to ecological functions and ecosystem wide process.	wide process”. The City has the tools of mitigation and permit limits and conditions to avoid or minimize adverse impacts, rather than banning most aquaculture outright.
5	BI 5.2.2	Aquaculture Policies	or interfere with navigation or other water dependent uses.	It benefits the City to use the same language as WAC 173-26-241(3)(b)(i)(B) and (C)The WAC has nuance and qualifiers, such as “significant”, that limit the intent and interpretation. The CAO language should provide the protection regarding critical habitat and conservation areas. The use of the word “significantly” is an important distinction in the degree of conflict. Including "significantly" is important in clarifying that there is inherent conflict between uses in the shoreline zone.
6	BI 5.2.2	Aquaculture Policies	<p><u>Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses.</u></p> <p>Prohibit intensive aquaculture where such development or activity would:</p> <p>a. Result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval;</p> <p>or</p>	All aquaculture should be "adequately mitigated" to result in no significant adverse impacts, not just “intensive” aquaculture. Since mitigation is required, a. seems to be redundant.
7	BI 5.2.2(5)	Aquaculture Policies	<p>b. <u>Aquaculture facilities should be designed and located to not spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.</u></p> <p>c. <u>Impacts to ecological functions shall be mitigated according to WAC 173-26-201(2)(e) and (XXX). Results in the spreading of disease, the introduction of non native species, or impacts to shoreline aesthetic qualities, or</u></p>	<p>For more consistency with the intent and limitations of WAC 173-26-241(3)(b)(i)(C)</p> <p>. Add reference to city code requiring mitigation.</p>

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8	BI 5.2.2 (5)	Aquaculture Policies	Result in impacts to other existing and approved land and water uses which would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, active scientific research, and/or the aesthetic qualities of a project area; and/or	All of these are covered by Policy 5 as "navigation and other water-dependent uses" and by Policy 6 as "aesthetic qualities of the shoreline" without adding qualifiers that would confound interpretation.
9	BI 5.2.2	Aquaculture Policies	<p>Result in impacts to where water quality, temperature, oxygen content, current, and salinity restrictions make the area unsuitable for the type(s) of aquaculture under consideration.</p> <p>5. Prohibit Community Shellfish Gardens where such development or activity would:</p> <p>a. Result in any significant adverse environmental impacts or aesthetic impact that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or</p> <p>b. Where impacts to other existing and approved land and water uses would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, and/or active scientific research; and/or</p> <p>c. Be unsuitable due to water quality, temperature, oxygen content, current, and salinity restrictions for the type(s) of aquaculture under consideration.</p> <p>Ensure Shellfish Gardens consider aesthetic impacts as part of the site design process.</p>	<p>All of these comprise ecological functions, and Policy 5 already does not allow a net loss of ecological functions.</p> <p>Delete if the policies (above) are revised. The revised policies include all types of aquaculture, and there is no need to restate specific ones for Shellfish Gardens here.</p> <p>The specific items listed do not necessarily result in "less environmental and/or visual impacts." For example, land-based facilities should be required to meet setback and buffer requirements, and thus are likely to have fewer visual impacts than water-based activities. Also, techniques change over time and there could be unforeseen aspects of future aquaculture that create significant impacts. Suggest at least adding some clarification about what is meant by "preference" and deleting the second sentence so the City has more flexibility in meeting the policy stated in the first sentence.</p>
10	BI 5.2.2	Aquaculture Policies	Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, <u>and</u> limited substrate modification, and that <u>don't rely</u> reliance on artificial feeding.	Replace "reliance" with "don't rely" to better describe intent.

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11	BI 5.2.2	Aquaculture Policies	Ensure aquaculture does installation of net pens, raft cultures or surface embedded structures do not cause cumulative environmental impacts. and aesthetic impacts, or interfere with navigation.	If policies (above) are changed, recommend editing this policy as noted given aesthetic and navigation impacts are already addressed.
12	BI 5.2.3(1)	Aquaculture Prohibited	Aquaculture <u>is prohibited</u> in the Natural and Priority Aquatic designations, except as provided in Section 5.2.4 (1), below.	To ensure clarity.
13	BI 5.2.3(2)	Aquaculture Prohibited	Aquaculture, except individual Shellfish Gardens in the following areas: a. Areas where intensive aquaculture development would have potential adverse impacts on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area. i. Community Shellfish Garden is prohibited in areas listed in (a) above except the use may be allowed when adverse aesthetic impacts are avoided or adequately mitigated through enforceable conditions of approval. b. Areas where an aquaculture proposal will result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval. c. Areas devoted to established uses of the aquatic environment with which the proposed aquacultural method(s) would substantially and materially conflict. Such uses would include, but are not limited to navigation, moorage, sport or commercial fishing, log rafting, underwater utilities and active scientific research.	Delete this subsection. The issues addressed in this subsection are covered by other regulations. Mitigation and permit limits and conditions are important planning tools available to the City to ensure impacts are mitigated adequately.
14	BI 5.2.3(2)	Aquaculture Prohibited	Areas that have water quality, temperature, oxygen content, current, and salinity restrictions that make the areas unsuitable for the type(s) of aquaculture under consideration.	Delete this subsection. The issues addressed in this subsection are covered by other regulations. Mitigation and permit limits and conditions are important planning tools available to the City to ensure impacts are mitigated adequately.

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15	BI 5.2.3	Regulations Prohibited	Mechanical and/or hydraulic harvesting or other activities that involve substantial substrate modification through dredging, trenching, or digging	Keep the definition of ‘substantial substrate modification’ more broad to allow more flexibility during project review.
16	BI 5.2.4(3)	Agriculture Regulations General	<p>Aquaculture facilities shall avoid:</p> <ul style="list-style-type: none">a. A net Loss of ecological functions or processes;b. Adverse impacts to eelgrass and macro algae;c. Significant conflicts<u>u</u> with navigation and water-dependent uses;d. The spreading of disease <u>to native aquatic life</u>;e. Establishing new <u>Introduction of</u> non-native species that <u>cause significant ecological impacts</u>; and/orf. Significant impacts to shoreline aesthetic qualities. <p>4. Shellfish Gardens shall minimize adverse aesthetic impacts and be restricted in the areas described in Section 5.2.3(2)(b)(c) and (d).</p>	<p>These changes are would ensure consistency with the nuances of WAC 173-26-241(3)(b)(i).</p> <p>Delete to avoid redundancy with other policies, above.</p>
17	BI 5.2.5 (3)	Aquaculture Regulations Design Standards	Hatchery and other aquaculture operations shall be required to maintain a vegetated buffer zone along the affected streamway as prescribed <u>in</u> Appendix B, provided that clearing of vegetation shall be permitted for essential water access points.	In the SMP streamway is not defined but stream is.
18	BI 5.2.5 (6)	Aquaculture Regulations Design Standards	Floating/hanging aquaculture facilities, and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts. All materials, including those used for incidental aquacultural for personal consumption, shall be marked with owners contact information to provide identification after storm disturbance. <u>All floating and submerged aquaculture structures and facilities in navigable waters shall comply with all applicable state and federal requirements.</u>	Add to ensure navigation aids are covered, which must comply with US Coast Guard regulations.

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19	BI 5.2.5 (10) Aquaculture	Regulations Design Standards	a. <u>It complies with all state and federal regulations, including transfer and harvest permits required by WDFW.</u> b. The cultivation and harvesting is limited to native species of shellfish <u>acquired from a licensed source consistent with state law</u> ; and	This change will ensure better compliance with WDFW permitting designed to avoid the spread of disease and highly invasive aquatic species within the state, and from outside Washington. Even moving shellfish from one part of an embayment to another may cause the spread of highly invasive aquatic species and disease.
20	BI 5.2.5 (10) Aquaculture	Regulations Design Standards	c. The operation may utilize bottom culture or off-bottom culture bags <u>if in</u> accordance with best management practices and <u>it does not shall</u> significantly alter the tidal bed; and	Recommend adding a specific source for best management practices. See SHB No. 11-019 (2012) Long Branch Shellfish case, where the Shorelines Hearings Board allowed Pierce County to require compliance with the Pacific Coast Shellfish Growers Environmental Codes of Practice as a condition of their permit.
21	BI 5.2.6(2)	Aquaculture Regulations Operational Standards	2. Aquaculture occurring on nonconforming aquaculture sites is not considered discontinued or abandoned until the use has ceased for a period of more than 5 years. <u>ed .Aquaculture operations that do not conform with this master program are considered discontinued if the use has ceased for a period of more than 5 years.</u>	Consider adding a <u>timeframe for abandonment</u> .
22	BI 5.2.7	Aquaculture Submittal Requirements	Submittal Requirements (a-m)	Ecology recommends that application requirements be moved out of the SMP to administrative procedures, to avoid needing a formal amendment if there is a change in application requirements.
23	BI 4.1.5.5	Critical Area Regulations - Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat	Regulations – Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat	A typographic error needs to reflect separate section formatting.

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24	Appendix A	Designations	Shoreline Designation change for McNabb Parcel B located at 4200 Eagle Harbor Drive (CPA-REZ 13220B subject to execution of Boundary Line Adjustment) from Shoreline Residential Conservancy to Urban designation.	For consistency with upland land uses with Water Dependent Industrial Uses (WD-I) upland zoning.
25	5.3.1	Boating Facilities Applicability	Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in BIMC Chapters 12.24, Waterfront Park and Other City Harbors, and 12.40, Watercraft and Floating Homes, and may also apply. See Section 6.3.7.7 and 8, for regulations governing mooring buoys. Boating facility development and/or renovation shall comply with all other applicable state and federal agency policies and regulations including, but not limited to the Department of Fish and Wildlife, <u>Department of Natural Resources</u> , Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10 33 USC § 403), U.S. Army Corps of Engineers dredging standards (33 USC § 403), and state and federal standards for the storage of fuels and toxic materials.	Clarifies intent. Washington DNR manages the use of state-owned aquatic lands. DNR requires leases from marinas over state-owned aquatic lands. Therefore, it is requested that WDNR be included as an agency.
26	6.1.5	Regulations-General	All applicable federal and state permits, including the Army Corps of Engineers, <u>Washington Department of Natural Resources</u> , and the Washington Department of Fish and Wildlife shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.	Clarifies intent. Washington DNR manages the use of state-owned aquatic lands.
27	6.3.8	Submittal Requirements Piers, Docks, Floats and Buoys	A scaled drawing that indicates the proposed location of: piers, floats, docks, and float storage location, if applicable, relative to the following: <ul style="list-style-type: none">a. property lines; andb. OHWM; andc. The line of navigation, the construction limit line or the harbor structure limit line, as applicable; andd. Provide contours at two-foot (2') interval for a twenty-five feet (25') distance	Clarifies intent. Washington DNR manages the use of state-owned aquatic lands

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			<div>to the right, left, and end of proposed structure, as measured from projects center line;</div> <div>e. <u>Location of state-owned aquatic lands in relation to the project.</u></div>	
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